

UNITED STATES OF AMERICA)
)
) CAUSE NO. 3:12cr0048 JD
)
THOMAS GREGORY)
PUBLICATIONS INC.)

AMENDED FINDINGS AND RECOMMENDATION
OF THE MAGISTRATE JUDGE
UPON A PLEA OF GUILTY

On June 11, 2012, the Honorable Jon E. DeGuilio, District Judge, referred this case to the undersigned to make findings as to whether the defendant (1) is competent to enter a plea; (2) knowingly and voluntarily wishes to enter a plea to the charge(s); (3) understands the charge(s); (4) whether there exists a factual basis for the charge(s); and a recommendation as to whether a plea of guilty should be accepted by the United States District Court Judge. On **June 18, 2012**, a hearing was held on the defendant's request to enter a plea of guilty. Appearing for the United States was Assistant United States Donald J. Schmid. Appearing for the corporate defendant was R. Steven Bom its attorney and Thomas G. Kouttoulas its owner and president. With the written consent of defendant, his counsel and the counsel for the United States, the undersigned proceeded to conduct the hearing.

In consideration of that hearing and the statements made by the defendant through its owner and president under oath on the record and in the presence of counsel, the remarks of the Assistant United States Attorney and the remarks of counsel for the corporate defendant,

I FIND as follows:

(1) that defendant is competent to plead guilty through the statements and actions of its owner and president, Thomas G. Kouttoulas.

(2) that the corporate defendant's president understands that his answers may later be used

(3) that defendant understands the nature of the charge against it to which the plea is offered;

(4) that the defendant understands the charge and what the maximum possible sentence is, and defendant understands that the sentencing guidelines apply and that the Court may depart from those guidelines under some circumstances;

(5) that the defendant understands its right to trial by jury, to persist in its plea of not guilty, to the assistance of counsel at trial, to confront and cross-examine adverse witnesses, its right to appeal its conviction, if convicted, and that the corporate defendant through its president has knowingly and voluntarily waived those rights, and wishes to plead guilty.

(6) that the plea of guilty by the defendant has been knowingly and voluntarily made and is not the result of force or threats or of promises apart from the plea agreement between the parties; and,

(7) that there is a factual basis for the defendant's plea.

In light of those findings, I now recommend that; (1) the Court accept the defendant's plea of guilty (2) that the defendant be adjudged guilty of **Count 2** of the Indictment, both in violation of Title 18, U.S.C. §1343 and have sentence imposed. A Presentence Report has been ordered. Should this Report and Recommendation be accepted and the Defendant adjudged guilty, sentencing has been scheduled for **September 20, 2012 at 2:30 p.m.** (EDT), before Judge Jon E. DeGuilio. Sentencing memorandum and any motions shall be filed no later than **September 13, 2012**. Objections to the Findings and Recommendation are waived unless filed and served within fourteen (14) days. 28 U.S.C. § 636(b)(1)(B).

DATED: July 12, 2012

S/Christopher A. Nuechterlein
Christopher A. Nuechterlein
United States Magistrate Judge